

Appl. No. : 10/506,414
Filed : August 31, 2004

REMARKS

The Specification has been amended to correct the publication of a reference. Claims 1, 9, 12, 13, 14, and 15 have been amended. Support for the amendments can be found in the Claims 1-27 as originally filed. No new matter has been introduced by these amendments. The following addresses the substance of the Office Action.

Enablement

The Examiner has rejected Claims 1-21 under 35 USC §112, first paragraph as allegedly non-enabled. Specifically, the Examiner stated that making an immortalized human Schwannoma cell line that is non-tumorigenic is not a routine practice, and the Specification does not place a limit on the number of nucleic acid mutations and chromosomal duplications, deletions, translocations, etc., that will allow the human Schwannoma cell line to maintain its non-tumorigenic properties. Applicant has amended Claims 1-21 to not recite non-tumorigenic. Therefore, Claims 1-21 are now enabled and their rejection under 35 USC §112, first paragraph should be withdrawn.

The Examiner has additionally requested that if a deposit of the human Schwannoma cells line #PTA-4544 was deposited at ATCC under the terms of the Budapest Treaty, an affidavit or declaration by Applicants, or a statement by an attorney of record, stating that the instant invention will be irrevocably and without restriction released to the public upon the issuance of a patent, should be filed. Applicant has amended the Specification to include such a statement.

Definiteness

The Examiner has rejected Claims 1, 12-14 and 17 under 35 USC §112, second paragraph, as being indefinite. Specifically, the Examiner stated that the phrases “phenotypic properties” and “phenotypic characteristics” are not defined in the Specification, and that morphological, immunohistochemical, proliferative and karyotypic phenotypes presently described in the specification regarding the HEI-193 cells are merely descriptive “snapshots” of a heterogeneous population of continuously evolving cells. Applicant has amended the claims to now recite that the claimed immortalized cell line has specific phenotypic characteristics: rapid growth; S100 positive; and mutant NF2 gene (e.g., 1575 G – A splice receptor). Therefore, Claims 1, 12-14 and 17 are now definite.

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The Examiner has rejected Claim 14 under 35 USC §112, second paragraph as indefinite. Specifically, The Examiner stated that the Specification does not disclose which passage number the HEI-193 cells deposited as ATCC #PTA-4544 had obtained, and "the identifying characteristics" of HEI-193 cells at each passage are distinctly different from each other, therefore, a cell line having "the identifying characteristics" of ATCC #PTA-4544 is indefinite. Claim 14 has been amended to claim specifically the deposited cell line #PTA-4544.

For all the above reasons, Applicant asserts that Claims 1, 1-14 and 17 are now definite, and their rejection under 35 USC §112, second paragraph should be withdrawn.

CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

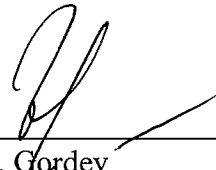
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: December 12, 2006

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